

IN THE CIRCUIT COURT OF PULASKI COUNTY, MISSOURI

RANDALL S. OEHLERKING,
6460 C. R. 9100,
West Plains, MO 65775

Plaintiff,

Vs.

Case No. 524-2311 CC

FIL-MOR EXPRESS, INC.,
A Foreign Corporation,
(please serve registered agent, Incorp
Services, Inc., 1011 Route E,
Jefferson City, MO 65101),
And

MICHAEL H. MORGAN,
820 Park Street,
Miami, OK 74354,

Defendants.

PETITION

Comes now plaintiff, Randall S. Oehlerking, and for cause of action against defendants, Fil-Mor Express, Inc., and Michael H. Morgan, states:

1. Plaintiff, Randall S. Oehlerking, is an individual citizen and resident of Missouri.
2. That defendant, Fil-Mor Express, Inc., ("Fil-Mor Express") is a foreign corporation, authorized to do and doing business in the State of Missouri, which has the capacity to be sued in the courts of the State of Missouri. Its registered agent in Missouri upon whom service of process may be had is Incorp Services, Inc., 1011 Route E, Jefferson City, MO 65101.

3. That defendant, Michael H. Morgan, is an individual believed to be a citizen of Oklahoma. The cause of action asserted herein against him arises from the operation of a motor vehicle by Michael H. Morgan within the State of Missouri; consequently, service of process may be had upon him, pursuant to Missouri's non-resident motorist act, §506.200 et seq., R.S.Mo. Plaintiff requests that service of process upon defendant, Michael H. Morgan, be effected on the Secretary of State of Missouri pursuant to Supreme Court Rule 54.15.

4. That on or about March 6, 2006, plaintiff was operating a motor vehicle in a generally easterly direction on Interstate Highway 44, a public thoroughfare, about .3 miles after its intersection with Route Y in Pulaski County, Missouri.

5. That at said time and place, defendant, Michael H. Morgan, was operating a vehicle, believed to be a 2004 Freightliner conventional tractor, hauling a trailer, and was operating said vehicle in a generally easterly direction on Interstate Highway 44 behind and to the rear of the vehicle operated by plaintiff.

6. That at said time and place, defendant, Michael H. Morgan, operated the tractor-trailer unit he was driving in such a manner that it collided into the rear of the vehicle operated by plaintiff.

7. That at said time and place, defendant, Michael H. Morgan, was acting in the course and scope of his employment by or agency for defendant, Fil-Mor Express, Inc. Consequently, the said defendant, Fil-Mor Express, Inc., is liable for damages caused by negligent acts or omissions of Michael H. Morgan in the operation of said motor vehicle at the time referenced above.

8. That the aforesaid collision was caused or contributed to be caused by negligence and failure to exercise the highest degree of care on the part of Fil-Mor

Express's driver, Michael H. Morgan, in one or more of the following particulars, viz:

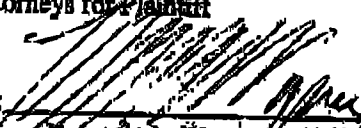
- (a) Fil-Mor Express's driver was following the vehicle operated by plaintiff and/or the vehicle immediately behind him too closely;
- (b) Fil-Mor Express's driver failed to keep a careful lookout;
- (c) The vehicle operated by the Fil-Mor Express driver came into collision with the rear of plaintiff's vehicle;
- (d) The Fil-Mor Express driver drove at an excessive speed; and
- (e) The Fil-Mor Express driver knew, or by the use of the highest degree of care, could have known that there was a reasonable likelihood of collision in time thereafter to have stopped, or swerved, or slackened his speed, or sounded a warning, or slackened his speed and swerved, or some combination thereof, but failed to do so.

9. That as a direct and proximate result of the aforesaid negligence and resulting collision, plaintiff sustained personal injuries, including cervical spine strain, thoracic spine strain, lumbar spine sprain/strain, with asymmetric disc bulge at L4-5, causing flattening of the thecal sac and right-sided foraminal stenosis with compression of the right L4 nerve root, with mild spondylitic disc bulge at L2-3 and L3-4. Plaintiff suffered pain, restriction of activities, was off work for a period of time and lost wages, and incurred expenses for medical treatment. Plaintiff's damages include past and future pain and suffering, wage loss, medical expenses, and restriction or reduction of activities. Plaintiff's injuries are believed to be permanent and progressive.

WHEREFORE, plaintiff, Randall S. Oehlerking, prays judgment against defendants, Fil-Mor Express, Inc. and Michael H. Morgan, and each of them, jointly and

severally, for such damages as are fair and reasonable in the premises, together with such other relief as is just and proper in the premises.

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By: 
Kenneth A. Wagoner #26329

IN THE CIRCUIT COURT OF PULASKI COUNTY, MISSOURI

Judge or Division: STORIE, HON. TRACY L. [24264]	Case Number: CV506-2311CC
Style of Case: RANDALL S. OEHLEKING VS FIL-MOR EXPRESS, INC. & ETAL.	Plaintiff's/Petitioner's Attorney/Address WAGONER, KENNETH A., Attorney for Plaintiff, PO BOX 527, WEST PLAINS, MISSOURI, MO, 65775
Nature of Suit: Civil - Personal Injury - Vehicular [C101]	

(Date File Stamp)

Summons in Civil Case

The State of Missouri to: **FIL-MOR EXPRESS, INC., REG. AGT. - INCORP SERVICES INC., 1011 ROUTE E, JEFFERSON CITY, MO 65101**

Name and address of Defendant/Respondent

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

(Seal of Court)

December 21, 2006

Rachelle L. Lively, Esq.
Clerk

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
- ☐ leaving a copy of the summons and a copy of the petition at the dwelling place of usual abode of the Defendant/Respondent with _____, a person of the Defendant's/Respondent's family over the age of 15 years.
- ☐ (for service on a corporation) delivering a copy of the summons and a copy of the complaint to: _____ (name) _____ (title).
- ☐ other _____

Served at _____ (address)
in _____ County, MO, on _____ (date) at _____ (time).

Printed Name of Sheriff or Server
Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on _____

(seal)

My commission expires: _____

Notary Public

Date

Sheriff's Fees, if applicable

Summons \$ _____
Non Est \$ _____
Mileage \$ _____ (_____ miles @ \$ _____ per mile)
Total \$ _____

A copy of the summons and a copy of the petition must be served on each Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

OSCA (7-99) SM30

Civil Procedure Form No. 1, Rules 54.01 - 54.05,

1 of 1

54.03, and 54.10; 506.120 - 506.140, and 506.150 RSMo.

TOTAL P. 06